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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,844	05/11/2001	Masato Fujii	44084-493	5699

7590 12/20/2004  
MCDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER

FADOK, MARK A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/852,844

Applicant(s)

FUJII ET AL.

Examiner

Mark Fadok

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 7-13 and 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/11/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-4 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Cupps (5,991,739).**

**In regards to claim 1**, Cupps discloses a system for providing communication terminals with information on a shop through communication, said system comprising: a first storage portion for storing data of a plurality of shops (FIG 2),

said data of the shops including delivery area information on delivery areas of the shops (abstract);

an acquisition portion for acquiring first location information on a location of a first communication terminal (FIG 11, item 302);

a processing portion for searching for a shop a delivery area of which includes the location of the first communication terminal based on the stored delivery area information and the received first location information (FIG 11, item 304); and

a transmission portion for transmitting a result of the search by the processing portion to the first communication terminal (FIG 11, 306).

**In regards to claim 2**, Cupps teaches wherein the transmission portion transmits the result of the search by the processing portion also to a second communication terminal different from the first communication terminal (FIG 13).

**In regards to claim 3**, Cupps teaches wherein the result of the search includes a list of retrieved shops (FIG 8).

**In regards to claim 4**, Cupps teaches a reception portion for receiving from the first communication terminal a narrowing criterion for narrowing the data of the shops (FIG 8, click the logo),

wherein when the reception portion receives the narrowing criterion the processing portion searches the list of the retrieved shops for a shop meeting the narrowing criterion with reference to the data of the shops (FIG 12C), and

the transmission portion also transmits a result of the search to the first communication terminal (FIG 8 – 10).

**In regards to claim 14**, Cupps teaches a second storage portion in which user information for identifying a user is stored (FIG 6),

said user information including location information on a location of the user's communication terminal (FIG 11, item 302); and

a reception portion that receives information for identifying a first user from the first communication terminal (FIG 11, item 304 and 306),

wherein the acquisition portion acquires the location information of the communication terminal by referring to the user information corresponding to the received information (FIG 11, item 302).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cupps in view of Official Notice.**

In regards to claims 5 and 6, Cupps teaches information concerning delivery (FIG 6), but does not specifically mention that the narrowing criteria includes information related to a predetermined time that a shop can make the delivery. It was old and well known for restaurants such as Dominos Pizza <sup>TM</sup> to provide information relating to how long a delivery will take, the delivery time being based on a radius of delivery from the restaurant. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Cupps having narrowing criteria presented for the customer to select a predetermined time period, because the customer may only have a

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short period of time in which to eat and may not want to select a restaurant that delivers in an hour. Cupps would be motivated to include this feature since the user would not have to go through the entire ordering process before receiving the delivery time, thus the user will be satisfied with the time saving feature and be more likely to return to use the system.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

**Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.**

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306** [Official communications; including

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After Final communications labeled

"Box AF"]

**(703) 746-7206** [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a long horizontal line extending to the right.

Mark Fadok

Patent Examiner